

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DANIEL ACEDO,

Plaintiff,

Case No. 15-cv-2969-BAS(JMA)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR  
RECONSIDERATION**

**SUPERIOR COURT OF THE  
STATE OF CALIFORNIA, et al.,**

### Defendants.

On March 30, 2016, the Court granted Plaintiff's request to proceed *in forma pauperis* and dismissed this action *sua sponte* pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A for failure to state a claim on which relief may be granted. (ECF No. 3.) Judgment was entered accordingly the same day. (ECF No. 4.) After pursuing an appeal that was ultimately dismissed by the Ninth Circuit (ECF No. 13), Plaintiff now moves for reconsideration of the March 30, 2016 Order under Federal Rule of Civil Procedure 60(b).

Once judgment has been entered, reconsideration may be sought by filing a motion under either Federal Rule of Civil Procedure 59(e) (motion to alter or amend

1 a judgment) or Federal Rule of Civil Procedure 60(b) (motion for relief from  
2 judgment). *See Hinton v. Pac. Enter.*, 5 F.3d 391, 395 (9th Cir. 1993).

3 Rule 60(b) provides for extraordinary relief and may be invoked only upon a  
4 showing of exceptional circumstances. *Engleson v. Burlington N.R. Co.*, 972 F.2d  
5 1038, 1044 (9th Cir.1994) (citing *Ben Sager Chem. Int'l v. E. Targosz & Co.*, 560  
6 F.2d 805, 809 (7th Cir. 1977)). Under Rule 60(b), the court may grant reconsideration  
7 based on: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly  
8 discovered evidence which by due diligence could not have been discovered before  
9 the court's decision; (3) fraud by the adverse party; (4) the judgment is void; (5) the  
10 judgment has been satisfied; or (6) any other reason justifying relief. Fed. R. Civ. P.  
11 60(b). That last prong is “used sparingly as an equitable remedy to prevent manifest  
12 injustice and is to be utilized only where extraordinary circumstances prevented a  
13 party from taking timely action to prevent or correct an erroneous judgment.” *Delay*  
14 *v. Gordon*, 475 F.3d 1039, 1044 (9th Cir. 2007).

15 Plaintiff summarizes the bases for the relief sought as follows: (1) “This court  
16 should use the sovereign [sic] power to recall its decision to dismiss. This sovereign  
17 [sic] power is warranted as the court did not provide notice as to whether [sic] this  
18 court dismiss[es] the complaint or the action and it appears that the court dismissed  
19 the complaint” (Pl.’s Mot. 2:21-3:1 (citations omitted)); and (2) “This court did not  
20 specifically provide that it ‘dismissed the action’ and the judgement [sic] does not  
21 provide that this court ‘dismissed the action’ therefore Plaintiff has a right to amend  
22 or should be given the right to amend” (Pl.’s Mot. 3:3-11 (citation omitted)). Both  
23 arguments lack merit.

24 The March 30, 2016 Order unequivocally states that the Court dismissed this  
25 action pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). Furthermore, despite  
26 Plaintiff’s interpretation, entry of judgment indicates a “court’s final determination  
27 of the rights and obligations of the parties in a case.” *See Judgment*, Black’s Law  
28 Dictionary (10th ed. 2014). In other words, the judgment entered in this case signifies

1 that this action has come to an end, in this case, in favor of Defendants. There is no  
2 ambiguity in either the March 30, 2016 Order or the judgment suggesting otherwise.  
3 Plaintiff was served and given notice of the reasons for dismissal, and judgment was  
4 entered accordingly.

5 Because Plaintiff fails to demonstrate entitlement to reconsideration, the Court  
6 **DENIES** the motion in its entirety. (ECF No. 15.)

7 **IT IS SO ORDERED.**

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9 **DATED: April 10, 2017**

  
10 **Hon. Cynthia Bashant**  
11 **United States District Judge**

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